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09/450,023	11/29/1999	WILLIAM A. GINDLESPERGER	11103.103C	7046

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[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

3624

DATE MAILED: 02/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/450,023	Applicant(s) Gindlesperger
Examiner Daniel Felten	Art Unit 3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Jan 30, 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-4 and 6-24 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-4 and 6-24 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

6) Other: _____

DETAILED ACTION

1
2 1. Receipt of the Supplemental Amendment filed January 30, 2003 amending claims 1, 2,
3 4, 6, 7, 19, 20, 22, 24 and canceling claim 5 is acknowledged. Claims 1-4 and 6-24 are
4 pending and presented to be examined upon their merits.

5
6 ***Claim Rejections - 35 USC § 103***

7 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
8 obviousness rejections set forth in this Office action:

9 (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
10 section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
11 such that the subject matter as a whole would have been obvious at the time the invention was made to a person
12 having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the
13 manner in which the invention was made.

14 Claims 1, 2, 6-10 and 19-24 Walker et al (hereinafter "WA207", US 5,794,207) in view of
15 Gustafson (US 5,659,731).

16
17 **As in Claim 1:**
18 WA207 discloses a method for competitive bidding vendors of customized goods or services see
19 WA207, col. 10, ll. 31+), comprising steps of:

1 receiving a vendor record from at least one of said vendors, said vendor record having a
2 vendor identifier data representing a vendor, and a vendor capability data identifying a capability
3 of said vendor to provide a customized *good or service for each of a plurality of vendors in a*
4 *pool of vendors* (see WA207, *seller database and CPO database*, col. 13, ll. 11-29);
5 receiving a job data (*Conditional Purchase Offer--CPO*) from said buyer, said job data
6 having a buyer identifier data representing said buyer, and a job descriptor data representing a
7 custom job for which said buyer wishes a price quote or bid (see WA207, example col. 8, ll. 42-
8 56);
9 transmitting a solicitation (or CPO) to *only selected members from the pool of vendors*
10 (WA207, col. 8, ll. 57 to col. 9, ll. 30);
11 receiving a bid response data from at least one of said vendors to which said transmitting
12 step transmitted said solicitation, said bid response data identifying the vendor it was received
13 and a bid price (WA207, col. 9, ll. 17-51); and
14 identifying a candidate bid from said received bid data, based on comparative values of
15 said bid prices (WA207, col. 16, ll. 12-45);
16 outputting to said buyer *said bid response data* (WA207, col. 16, ll. 12-45);
17 receiving an approval data from said buyer, said data representing one of an approval of
18 said vendor corresponding to said candidate bid and an approval of another of said vendors; and
19 transmitting an order to the vendor represented by said approval data (WA207, col. 29, ll. 52 to
20 col. 30, ll. 29).

WA207 fails to disclose *automatically* comparing (*or matching*) said vendor records to said job data; and *automatically* identifying at least one *group from the pool of vendors* records as qualified for receiving an invitation for bid, based on said comparison. These features are disclosed by Gustafson (see Gustafson, Abstract, col. 3, ll. 18 to col. 4, ll. 9). Since WA207 discloses that a seller database is accessed by the central controller (computer) to determines whether sellers/vendors are qualified to bind, or at least, have the ability to satisfy the requirements (conditions) of a given conditional purchase offer, "CPO" (see WA207, at least col. 9, ll. 19-22; *giving point values for various met conditions*-- col. 16, 12-45), It would have been obvious for an artisan at the time of the invention was made to integrate the method of automatically identifying, matching and evaluating information on a plurality of seller/vendor entities, as disclosed by Gustafson (see Gustafson, col. 13, ll. 10+), because an artisan at the time of the invention of WA207 would have desired to present to buyers a choice of seller/vendor entities which represent the "best fit" or "best qualified" to meet the needs of the buyer at of a pool of sellers/vendors (see WA207, *authorized dealers*, col. 10, ll. 40+). Thus to integrate the aforementioned method of Gustafson within the WA207 method would have been an obvious expedient well within the ordinary skill in the art.

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1 **As in Claim 2:**

2 WA207 in view of Gustafson discloses wherein said job a selection criteria data, said
3 selection criteria specifying at least one of a vendor name, a vendor capability, a descriptor of an
4 ownership characteristic of said vendor,
5 a descriptor of a union status of said vendor, and a vendor geographical location, and
6 wherein said comparison is performed in accordance with said selection criteria data (see
7 WA207, col. 13, ll. 11-22).

8

9 **As in Claim 6:**

10 WA207 in view of Gustafson discloses wherein the vendor capability data represents the
11 identified vendor's capability to manufacture each of a plurality of different types of customized
12 goods *or furnish each of a plurality of customized services* (see WA207, col. 13, ll. 10-22).

13

14 **As in Claims 7, 9:**

15 WA207 in view of Gustafson discloses further comprising steps of inputting into said
16 central data server a completion of job data (see WA207, *Accepted CPO from a seller*, col. 9, ll.
17 24-29);

18 transmitting from a central data *server to said* buyer an invoice (*CPO*) for payment of
19 said bid price (see WA207, col. 9, ll. 31-35, col. 9, ll. 40-43);

1 inputting a payment from said buyer into an escrow account serving as a single-source

2 accounts payable destination for the buyer's vendor payments (see WA207, col. 9, ll. 35-39);

3 transferring a payment from said escrow account to an account of said vendor

4 corresponding to the invoice payment data (CPO) (see WA207, col. 9, ll. 35-39).

5

6 **As in Claims 8, 10:**

7 WA207 in view of Gustafson discloses further comprising steps of:

8 adding the cost to the buyer of using the invention associated with each job as a job

9 transaction fee to the vendor payment invoice prior to buyer approval of the invoice;

10 allocating and distributing a data representing payment of said invoice by transmitting the

11 job transaction fee data to a system administration account and transmitting a remainder vendor

12 payment data to an account of said vendor (see WA207, col. 20, ll. 16-28).

13

14 **As in Claim 19:**

15 WA207 in view of Gustafson discloses a step of creating a web site;

16 wherein step of receiving a vendor record comprises a step of said vendor visiting said

17 web site and inputting said record using a web browser (see WA207, col. 8, ll. 66 to col. 9, ll.

18 16).

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3 **As in Claim 20:**

4 WA207 in view of Gustafson discloses wherein the job data includes a preferred vendor
5 data identifying at least one preferred *or non-preferred* vendor, and wherein said step of
6 transmitting a solicitation includes transmitting said solicitation to said at least one preferred
7 vendor (see WA207, col. 13, ll. 30-34).

8

9 **As in Claim 21:**

10 WA207 in view of Gustafson discloses wherein said bid response data represents a
11 proposed alternative specification for said custom job represented by said solicitation data and
12 further comprising a step of:

13 displaying said alternative specifications; receiving an alternative specification approval
14 data; and

15 identifying the vendor associated with the bid response data as qualified or not qualified
16 to receive said invitation for bid, based on said alternative specification approval data (see
17 WA207, counteroffers, col. 8, ll. 5-8; col. 9, ll. 45-51; col. 22, ll. 52+).

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1 **As in Claim 22:**

2 WA207 in view of Gustafson discloses a system for competitive bidding by vendors of
3 customized goods and services, comprising:

4 A general purpose computer having a data storage (see WA207, col. 12, ll. 8-21);
5 means for inputting a plurality of vendor records into said data storage, each of said
6 vendor records having a vendor identifier data *representing* a vendor and a vendor capability data
7 representing a capabilities of said vendor, *to provide a customized good or service for each of a*
8 *plurality of vendors in a pool of vendors;*

9 means for inputting a job data into said data storage, said job data having a buyer
10 identifier data, a job description data *representing* a
11 custom job *for which said buyer wishes a price quote or bid*, (see WA207, col. 12, ll. 8-21; col.
12 12, ll. 54 to col. 13, ll. 22);

13 means for *automatically* generating a vendor pool data, said vendor pool data
14 representing vendor records *for at least one group from the pool of vendors as qualified to bid on*
15 said custom-job, each vendor record represented by the vendor pool data being qualified based
16 on a match of at least one of a group consisting of said buyer identifier data, said job description
17 data, and said selection criteria data to at least one of a group consisting of said vendor
18 qualification data and said vendor identifier data (see WA207, col. 13, ll.1+);

19 means for transmitting a solicitation to *selected members* in said vendor pool; means for
20 inputting into said general purpose computer a plurality of bid data, each being from a vendor to

1 which said solicitation was transmitted, each of said bid data representing a bid price (see
2 WA207, *CPO*, col. 12, ll. 9-11; col. 15, ll. 46+);

3 means for identifying a bid data from said received bid data having the lowest
4 represented bid price; *and*

5 means for outputting to said buyer said *bid data* and
6 means for receiving an approval data from said buyer, the approval data indicating an
7 approval of one of said vendor represented by said selected vendor data or another of said
8 vendors means for transmitting an order to the vendor represented by said received approval
9 data (see WA207, col. 16, ll. 11-45).

10

11 **As in Claim 23:**

12 wherein said means for receiving a plurality of vendor records includes a web host, and a
13 web browser associated with at least one of said buyer and said vendors (see WA207, col. 14, ll.
14 7-29).

15

16 **As in Claim 24:**

17 A method for competitive bidding by vendors of customized goods or services, comprising steps
18 of:

1 receiving a job data (*CPO*) from said buyer, said job data having a buyer identifier data
2 representing said buyer, and a job descriptor data representing a custom job (*CPO*) for which said
3 buyer wishes a price quote or bid (see WA207, col. 13, ll. 1-10);
4 distributing to a plurality of vendors, by electronic publishing, a job advertising data
5 representing said custom job (see WA207, col. 15, ll. 46-52; and col. 15, ll. 60 to col. 16, ll. 11);
6 receiving a bid response data from at least one of said plurality of vendors, said bid
7 response data identifying the vendor it was received from, a bid price, and an alternative
8 specification data representing a proposed deviation (*counteroffer*) from said job descriptor data
9 (see WA207, counteroffers, col. 8, ll. 5-8; col. 9, ll. 45-51; col. 22, ll. 52+);
10 identifying a selected bid from said received bid response data, based on comparative
11 values of said bid price and said alternative specification data (see WA207, counteroffers, col. 8,
12 ll. 5-8; col. 9, ll. 45-51; col. 22, ll. 52+);
13 transmitting an order (*CPO*) to the vendor represented by said selected bid (see WA207,
14 counteroffers, col. 8, ll. 5-8; col. 9, ll. 45-51; col. 22, ll. 52+);
15 generating a job milestone data based on said job descriptor data (see WA207,
16 counteroffers, col. 8, ll. 5-8; col. 9, ll. 45-51; col. 22, ll. 52+); and
17 receiving job progress data from said vendor represented by said selected bid (see fig. 7,
18 WA207, status, col. 17, ll. 48-64).
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2 3. Claims 3, 4, 5, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable
3 over Walker et al (hereinafter "WA207", US 5,794, 207) as modified by Gustafson (US
4 5,659,731) as applied to claim 1 as discussed above and in further view of Fischer et al
5 (hereinafter "Fischer", US 6,243,691 B1). The teachings of WA207 as modified by Gustafson
6 have been discussed above.

7
8 **Regarding Claims 3, 4, 5:**
9 WA207 as modified by Gustafson fails to fairly suggest steps of:
10 ranking said received bid response data according to said represented bid price; and
11 publishing an information data to other vendors identifying said selected vendor and the
12 rank order value of said received bid data; and
13 identifying said selected vendor and the rank order value of said received bid response
14 data.

15 These features are found in Fischer (see fig. 7, col. 9, ll. 43-65; col. 5, ll. 66 to col. 6, ll.
16 60). It would have been obvious for an artisan of ordinary skill at the time of the invention to
17 integrate the features disclosed in Fischer into WA207 as modified by Gustafson because an
18 artisan at the time of the time of the invention would recognize the advantage of aforementioned
19 features to inform users as to the status of their bid in comparison to other competing bidders.

1 Furthermore, the integration of such notoriously old and well known features of Fischer
2 into the WA207 system, would provide greater competition between competitors as well as
3 greater usage of the system. Thus such a modification would be an obvious expedient to an
4 artisan of ordinary skill in the art.

5

6 **Regarding Claim 11:**

7 WA207 as modified by Gustafson and in further view of Fischer discloses steps of
8 inputting into said central data server a completion of job data (see WA207, *Accepted CPO from*
9 *a seller*, col. 9, ll. 24-29);

10 transmitting from said central data server to said buyer an invoice (*CPO*) for payment of
11 said bid price (see WA207, col. 9, ll. 31-35, col. 9, ll. 40-43);

12 inputting a payment from said buyer into an escrow account serving as a single-source
13 accounts payable destination for the buyer's vendor payments (see WA207, col. 9, ll. 35-39);

14 transferring a payment from said escrow account to an account of said vendor
15 corresponding to the invoice payment data (*CPO*) (see WA207, col. 9, ll. 35-39).

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1 **Regarding Claim 12:**

2 WA207 as modified by Gustafson and in further view of Fischer comprising steps of
3 adding the cost to the buyer of using the invention associated with each job as a job transaction
4 fee to the vendor payment invoice prior to buyer approval of the invoice;

5 allocating and distributing a data representing payment of said invoice by transmitting the
6 job transaction fee data to a system administration account and transmitting a remainder vendor
7 payment data to an account of said vendor (see WA207, col. 20, ll. 16-28).

8

9

10 4. Claims 13, 14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over
11 Walker et al (hereinafter "WA207", US 5,794, 207) as modified by Gustafson (US 5,659,731) as
12 applied to claim 1 as discussed above and in further view of Walker et al (hereinafter "WA911"
13 US 5963,911). The teachings of WA207 as modified by Gustafson (US 5,659,731) have been
14 discussed above.

15

16 **Regarding Claims 13 and 14:**

17 WA207 as modified by Gustafson fails to disclose a step of calculating a job milestone
18 data based on said buyer's job data. The aforementioned feature is taught by WA911 (see
19 WA911, col. 13, ll. 30+).

1 It would have been obvious for an artisan of ordinary skill at the time of the invention of
2 WA207 as modified by Gustafson to integrate the aforementioned feature disclosed in WA911
3 into the WA207 system because WA207 system may provide a service (or supply a CPO) which
4 requires progressive updates the completion of the service or job. Thus such a modification
5 would have been an obvious expedient to one of ordinary skill in the art.

6

7 **Regarding Claims 16 and 17:**
8 discloses steps of generating a job progress verification request based on said job milestone data;
9 and receiving a data representing a job progress corresponding to said job progress
10 verification request (see WA911, col. 13, ll. 30+).

11

12 5. Claims 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over
13 WA207 as modified by Gustafson and Fischer as applied to claim 3 above, and further in view
14 of WA911.

15

16 **Regarding claim 15:**
17 WA207 as modified by Gustafson and Fischer fail to disclose the step of calculating a
18 job milestone data based on said buyer's job data. The calculation of a milestone is taught by
19 WA911 (see WA911, col. 13, ll. 30+). It would have been obvious for an artisan at the time
20 of the invention to employ the teaching of WA911, including the aforementioned features, to

1 the teachings of WA207 as modified by Fischer because such a modification would have
2 provided the WA207 system with pertinent information in the process of completion of specific
3 orders/jobs processed by the system. Thus the ability for the system to monitor and track data
4 processing would have been an obvious expedient well within the ordinary skill in the art.

5

6 **Regarding claim 18:**

7 WA207 as modified by Gustafson and Fischer in further view of WA911 discloses steps of
8 generating a job progress verification request based on said job milestone data; and
9 receiving a data representing a job progress corresponding to said job progress
10 verification request (see WA911, col. 13, ll. 30+).

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Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

6 A shortened statutory period for reply to this final action is set to expire THREE
7 MONTHS from the mailing date of this action. In the event a first reply is filed within TWO
8 MONTHS of the mailing date of this final action and the advisory action is not mailed until after
9 the end of the THREE-MONTH shortened statutory period, then the shortened statutory period
10 will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR
11 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,
12 will the statutory period for reply expire later than SIX MONTHS from the date of this final
13 action.

15 7. Any inquiry concerning this communication or earlier communications from the examiner
16 should be directed to **Daniel S. Felten** whose telephone number is (703) 305-0724. The
17 examiner can normally be reached between the hours of 7:00AM to 5:30PM Monday-Thursday.
18 Any inquiry of a general nature relating to the status of this application or its proceedings should
19 be directed to the Customer Service Office (703) 306-5631, or the examiner's supervisor
20 **Vincent Millin** whose telephone number is (703) 308-1065.

22 8. Response to this action should be mailed to:

for formal communications intended for entry, or (703) 305-0040, for informal or draft communications, please label "Proposed" or "Draft".

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [daniel.felten@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1 195 OG 89.

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16 DSF

17 February 3, 2003



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